

**R e m a r k s**

Claims 15-20 and 22-30 are pending.

Claims 15-18 are rejected under 35 U.S.C. §102(b) as being anticipated by Terasawa et al., U.S. Patent No. 6,147,714 (hereinafter "Terasawa").

Claims 19-20 and 22-30 are rejected under 35 U.S.C. §103(a) as being unpatentable over Terasawa in view of Hendricks et al, U.S. Patent No. 5,734,853 (hereinafter "Hendricks").

Each of the various rejections and objections are overcome by amendments that are made to the specification, drawing, and/or claims, as well as, or in the alternative, by various arguments that are presented.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or is simply clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., to just avoid the prior art in a way that leaves the claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

Also, since a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any dependent claims that have been herein rewritten in independent form is exactly the same as the scope and content of those claims prior to having been rewritten in independent form. That is, although by convention such rewritten claims are labeled herein as having been "amended," it is submitted that only the format, and not the content, of these claims has been changed. This is true whether a dependent claim has been rewritten to expressly include the limitations of those claims on which it formerly depended or whether an independent claim has been rewritten to include the limitations of claims that previously depended from it. Thus, by such rewriting no equivalent of any subject matter of the original dependent claim is intended to be surrendered. If the Examiner is of a different view, he is respectfully requested to so indicate.

### **Information Disclosure Statement**

Applicants thank the Examiner for considering the references identified in the Information Disclosure Reference (IDS) filed by Applicants on May 1, 2008. However, Applicants respectfully note no acknowledgement has been received by Applicants that would indicate that the references cited in the IDS filed on October 28, 2003 and IDS filed on October 22, 2007 have been considered by the Examiner. Clarification of the matter is respectfully requested.

### **Rejection Under 35 U.S.C. §102(b)**

#### **Claims 15-18**

Claims 15-18 are rejected under 35 U.S.C. §102(b) as being anticipated by Terasawa. The rejection is traversed.

Anticipation requires the presence in a single prior art disclosure of each and every element of the claimed invention, arranged as in the claim. Terasawa fails to disclose each and every element of the claimed invention, as arranged in independent claim 15.

Claim 15 recites

In a system providing a plurality of programs to at least one consumer, said plurality of programs having associated time parameters and channel parameters, a method of providing program guide information to said at least one consumer comprising the steps of:

(a) forming, for a first plurality of channels, a first program guide information stream, said first program guide information stream comprising a video representation of programming offered by each of said first plurality of channels during a predetermined period, said first program guide information stream including video objects associated with respective program selection parameters;

(b) forming, for each of a second plurality of channels, a second program guide information stream, said second program guide information stream comprising a video representation of programming offered by each of said second plurality of channels during said predetermined time period, said second program guide information stream including video objects associated with respective program selection parameters, said second program guide video objects arranged in substantially the same manner as said first program guide video objects; and

(c) providing, to said at least one consumer, said first and second program guide information streams, said first and second program guide information streams being temporally aligned according to said predefined time period

(emphasis added).

The Examiner asserts that step (a) is taught by Terasawa. In particular, the Examiner suggests that Terasawa describes the EPG data being transmitted in MPEG format and that “[s]ince MPEG data is video data and the channels are selectable units, the claimed video objects [are] met by the reference” (see Office Action, page 3). Applicants respectfully disagree with the Examiner’s interpretation of Terasawa.

Terasawa discloses a plurality of MPEG video/audio encoders 303 for encoding a predetermined number of broadcast channels provided from a switcher 301. The predetermined video signals are also supplied to a JPEG controller 310 within an electronic program guide (EPG) data generating device 309. The JPEG encoder 310 selects predetermined typical frames from the received broadcast channels provided by the switcher 301, reduces each video frame to a smaller size video frame, compresses the video frame into EPG data and transmits the EPG data (including the compressed video frame) to receivers. However, the compressed EPG data includes only non-video data, i.e., data representing still image frames from each of one or more received television channels.

Further, although Terasawa discloses MPEG encoding, such MPEG encoding, is only used to encode the received television channels. However, the user interface and electronic program guide aspects of Terasawa are not MPEG video encoded. Rather, to the extent that any imagery is used, such imagery is encoded using the non-video JPEG technique (i.e., still image with intra-frame encoding) (see e.g., col. 3, line 34 – col. 4, line 22; col. 6, lines 6 – 42; see also Fig. 1, where data generated by the EPG data generating device 309 is provided to multiplexors 304 and a promotion-channel generating device, however is never provided to the MPEG video/audio encoders 303). Accordingly, Terasawa does not teach or suggest a first or second program information streams comprising video representation of programming offered by each of the plurality of channels including video objects associated with respective selection parameters, as recited in independent claim 15.

Furthermore, with respect to the (b) step of claim 1, the Examiner suggests that Terasawa discloses multiple data streams for different categories, such as “Movies, Sports, Music Drama, etc.” Applicants respectfully disagree. Nowhere in the cited portion does Terasawa identify categories Movies, Sports, Music drama shown in Fig. 32 as being provided by separate data streams. Rather, rectangles of Fig. 32 shown below each of the categories are merely described by Terasawa as still pictures. Such still pictures are provided as a single data stream (see Figs. 5

– 6, col. 6, lines 6 – 42; see also col. 7, lines 48 - 54), and thus, Terasawa fails to disclose features of Applicants’ (b) step of claim 15. Consequently, Terasawa fails to disclose features of Applicants’ step (c), reciting the first and second program guide information streams.

Moreover, with respect to step (c), the Examiner suggests that the step reads on Figs. 8 and 9 of Terasawa. Applicants respectfully disagree. As discussed above, the Examiner has suggested that data regarding different categories, i.e., Movies, Sports, etc., is provided as separate data streams. However, neither Fig. 8, nor Fig. 9 displays different categories of data. Rather, Fig. 8 merely shows an example of an entire program table, while Fig. 9 shows an example of a channel program table. Claim 1, in contrast, recites the “first and second program guide information streams being temporally aligned according to said predefined time period.” Anticipation requires the presence in a single prior art disclosure of each and every element of the claimed invention, arranged as in the claim. Because Figs. 8 and 9 of Terasawa fail to show the first and second information streams being temporally aligned, Terasawa fails to anticipate Applicants’ claim 15.

As such, Applicants respectfully submit that independent claim 15 is allowable under 35 U.S.C. §102(b) over Terasawa. Because all of the dependent claims depending from the independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also allowable over Terasawa. Therefore, the rejection should be withdrawn.

### **Rejection Under 35 U.S.C. §103(a)**

#### **Claims 19-20 and 22-30**

Claims 19-20 and 22-30 are rejected under 35 U.S.C. §103(a) as being unpatentable over Terasawa in view of Hendricks. The rejection is traversed.

The Examiner bears the initial burden of establishing a *prima facie* case of obviousness. See MPEP § 2141. Establishing a *prima facie* case of obviousness begins with first resolving the factual inquiries of *Graham v. John Deere Co.* 383 U.S. 1 (1966). The factual inquiries are as follows:

- (A) determining the scope and content of the prior art;
- (B) ascertaining the differences between the claimed invention and the prior art;
- (C) resolving the level of ordinary skill in the art; and

(D) considering any objective indicia of nonobviousness.

Once the Graham factual inquiries are resolved, the Examiner must determine whether the claimed invention would have been obvious to one of ordinary skill in the art. The key to supporting a rejection under 35 U.S.C. §103 is the clear articulation of the reasons why the claimed invention would have been obvious. The analysis supporting such a rejection must be explicit. "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F. 3d 977, 988 (CA Fed. 2006), cited with approval in *KSR Int'l Co. v. Teleflex, Inc.*, 126 S. Ct. 2965 (2006); see also MPEP §2141.

The Examiner suggests that claim 19 recites a system for providing a plurality of programs to at least one consumer, comprising elements that correspond with subject matter of Applicants' claim 15 and relies on the arguments presented with respect to claim 15. To support the §103 rejection of claim 19, the Examiner fails to provide any additional arguments with respect to these elements. However, as discussed above with respect to claim 15, such elements are not taught by Terasawa. In particular, for at least the reasons discussed above, Terasawa does not teach or suggest at least:

"said first logical stream comprising a first program guide information stream, said first program guide information stream comprising a video representation of programming offered by each of a first plurality of channels during a first predetermined time period including said first time period of interest, said program guide information stream including video objects associated with respective program selection parameters,"

as recited in independent claim 19.

Because the Examiner does not present arguments that Hendricks teaches the above recited features of claim 19, a *prima facie* case of obviousness has not been established. Therefore, Applicants respectfully submit that claim 19 is allowable over Terasawa in view of Hendricks under 35 U.S.C. §103. Furthermore, because all of the dependent claims that depend from the independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also allowable over Terasawa in view of Hendricks under 35 U.S.C. §103.

As such, Applicants respectfully submit that claims 19-20 and 22-30 are allowable over Terasawa in view of Hendricks under 35 U.S.C. §103. Therefore, the rejection should be withdrawn.

**Conclusion**

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Eamon J. Wall at (732) 842-8110 x 120 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

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